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| DECISION-MAKER: | PLANNING AND RIGHTS OF WAY PANEL |
| SUBJECT: | COMMUNITY INFRASTRUCTURE LEVY |
| DATE OF DECISION: | 23 JULY 2013 |
| REPORT OF: | PLANNING AND DEVELOPMENT MANAGER |

STATEMENT OF CONFIDENTIALITY: N/A

BRIEF SUMMARY

The Community Infrastructure Levy (CIL) Regulations (as amended) came into force in April 2010 and introduced a new mechanism by which local authorities can seek developer contributions to assist in funding the infrastructure needed to support new development. The rate of CIL to be applied to new development is set out within the Charging Schedule (as set out in **Appendix 1**).

The Charging Schedule was informed by two public consultation exercises, a viability assessment, infrastructure needs assessment and was scrutinised at an independent examination hearing in public (please refer to the Examiner's Report in **Appendix 2**). In response to the Examiners Report the Charging Schedule has been amended accordingly from its draft form reducing the residential charge rate from £90 sq m to £70 sq m for new residential development. The Charging Schedule is supported by the Developer Contributions Supplementary Planning Document (attached as **Appendix 3**) to secure further contributions towards affordable housing and address the site specific impacts of new development and also an Instalments Policy (as set out in **Appendix 4**) which assists with developers' cash flow in paying the CIL.

The Charging Schedule, Developer Contributions SPD and Instalments Policy are due to be recommended for approval by the Cabinet on 16th July and Council on 17th July (a verbal update will be provided at Panel as the deadline for this report was prior to these meetings).

RECOMMENDATIONS:

- (i) To note the contents of this report.

REASONS FOR REPORT RECOMMENDATIONS

1. The 2004 Barker Review of Housing Supply noted that the lack of timely delivery of infrastructure is a key barrier to the delivery of development. The key purpose of the Community Infrastructure Levy Regulations (2010) is to raise additional revenue for such infrastructure. The Southampton Local Development Framework Core Strategy (2010) sets out the growth plans for Southampton up to 2026. An assessment of the infrastructure needed to support this growth, undertaken as part of this study, highlights a significant gap between the known available sources of funding for infrastructure and its total cost. In such circumstances, the CIL Regulations make it clear that it is

appropriate to introduce the CIL to ensure that new development contributes towards the infrastructure needed to support it.

2. Financial contributions would be generated by CIL liable development at a rate set out within the Charging Schedule. The Council carried out the requisite public consultation in respect to the Draft Charging Schedule which was informed and supported by viability evidence. There was a considered response to the initial proposals from various parts of the development industry. These responses were carefully considered and taken into account in the final version of the Draft Charging Schedule. In March 2013, the Draft Charging Schedule was heard before an independent examination which was held in public. The examination Inspector published his report in April 2013 which concluded that, subject to one modification in respect to reducing the rate of CIL applied to residential development, the Charging Schedule is capable of providing an appropriate basis for collecting the Community Infrastructure Levy in Southampton and that retail and residential development will remain economically viable across most of the City. The Charging Schedule has been revised in line with the modification set out within the examination report. The charge rate is for residential uses but not for commercial uses with the exception of retail uses.
3. The charge rate for residential C3 and C4 uses is £70 per sq m, there is no charge rate for commercial uses with the exception of retail A1 – A5 uses which is charged at £43 per sq m.
4. The Instalments Policy sets out the level of the CIL charge, the number of instalments available for that charge and the timing of instalments for that charge. It will have a positive impact on developers' cash flow by allowing deferred payment and will help to ensure that development within the City remains viable.
5. The Developers Contributions Supplementary Planning Document (SPD) sets out the Council's policy for securing other developer contributions for new developments and should be considered alongside the Charging Schedule. Whilst some development may only be CIL liable, other development may also have to make other contributions (through a Section 106 agreement) towards, for example, affordable housing and site specific transport and access requirements.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

6. Option 1 – Do not approve the Charging Schedule
This option was not recommended as the Council's ability to provide strategic infrastructure to support growth would be significantly compromised. After 2014 the Council would lose the ability to pool contributions from more than five schemes towards infrastructure. Planning contributions would be therefore be restricted to addressing site specific issues rather than towards strategic infrastructure. Furthermore, the Council has previously committed to seeking contributions through CIL and subsequently public consultation on the Draft Charging Schedule and its examination in public were undertaken.

DETAIL (Including consultation carried out)

7. The Southampton Core Strategy (2010) commits to building 16,300 new homes, 300,000 square metres of employment and 130,000 square metres of retail space before 2026. This level of growth will clearly require significant support from a range of infrastructure and services, including measures to enable development to respond to future challenges such as flood risk. Funding for such infrastructure can be generated from CIL. These targets are currently going through a Partial Review, the new homes target remains the same but the employment space and retail space targets have been reduced to 110,000 square metres and 100,000 square metres respectively.
8. An Infrastructure Study and Delivery Plan were prepared in response to the Community Infrastructure Regulations (2010) (as amended). The Infrastructure Study has a detailed evidence base which includes a Demographics Analysis, an Infrastructure Needs Assessment and a Viability Appraisal. The Demographics Analysis provides further detail regarding the likely growth of the city over the plan period and underpins many of the assumptions in the Needs Assessment. The Needs Assessment highlights a gap in funding between the total cost of infrastructure needed and the anticipated funding for this. It therefore concludes that the following types of infrastructure should be beneficiaries of CIL with the total estimated costs associated with providing this infrastructure also listed:
 - Strategic Transport (£431.1 million);
 - Strategic Open Space and Biodiversity (£42.9 million);
 - Strategic Flood Risk (£87.8 million);
 - Education (£24.3 million);
 - Sports, Recreational and Community Facilities (£17.0 million);
 - Health (£4.3 million) and;
 - Museums and Libraries (£3.9 million).
9. Strategic transport, strategic flood risk, open space and education represent the greatest infrastructure costs. The CIL Regulations require the Levy to be used for infrastructure needed to support new development but planning regulations provide a broad definition of infrastructure and so enable Local Authorities flexibility in deciding how to use the Levy. The Council is not rigidly tied to committing the Levy each year towards the infrastructure identified in the Needs Assessment. Once CIL is adopted Local Authorities are required to publish annual reports detailing the amounts collected and how and where the Levy is used.
10. CIL application

The Levy is a flat rate charge for all new floorspace created in developments of over 100 square metres. The Levy also applies to the construction of all new dwellings, irrespective of size. The Regulations set out that affordable housing is exempt from the charge, as is development by charities for charitable purposes. The Council may also make exceptional relief from CIL available for developments with abnormal site specific infrastructure costs, subject to the relevant tests being met, as set out in the CIL Regulations.

Other than through this provision, CIL is not negotiable (unlike Section 106 contributions).

11. The Charge Rates (per sq m as set out below) are to be applied to the increase in gross internal floorspace of any new building or extension, if it has at least 100 sq m of gross internal floorspace or involves the creation of a dwelling (even when that is below 100 sq m):

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| Retail (Classes A1 – A5) | £43 |
| Hotels (Class C1) | £0 |
| Residential institutions (Class C2) | £0 |
| Residential development (C3, C4 and Sui Generis Houses in Multiple Occupation) | £70 including student housing |
| Community Uses (Class D1) | £0 |
| Business (B1, B2, B8 and other commercial uses not specified above) | £0 |

12. It will be no longer be possible to use the Section 106 agreement process to pool contributions from more than five developments. As such, a Developer Contributions Supplementary Planning Document has been produced which will secure the negotiable elements that cannot be addressed by the Levy. This includes affordable housing and the resolution of site specific issues, such as the provision of highway improvements to serve the development and make it acceptable in planning terms. The Council will continue to take matters of site specific viability into account as part of this process. The SPD provides clarity on the expected interaction between the CIL and Section 106 legal agreements for site specific infrastructure, to avoid possible double counting of financial contributions
13. The CIL Regulations (2010) require the Council to publish a list (known as the Regulation 123 List) of infrastructure projects and types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL. The Capital Board will determine the infrastructure projects and types of infrastructure that will appear on the list.
14. The Community Infrastructure Levy (Amendment) Regulations 2013 make provision for the Council to utilise 15% of the revenue generated from CIL on neighbourhood funding, to help communities accommodate the impact of new development in their areas. The Council will retain the Levy receipts but will engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding.

RESOURCE IMPLICATIONS

Capital/Revenue

15. The Council is able to use up to 5% of the CIL receipts to cover the costs of monitoring, administering and updating the Levy. The resources required to monitor and manage CIL will be borne by existing budgets and staffing

(including a post which has been specifically set up for this purpose). Additional monitoring and administrative work will also be carried out from within existing resources. A savings proposal was approved by Council in July 2012 which was based on the anticipated additional income from infrastructure charge administration fees. As a consequence, income of £50,000 in 2013/14 and £90,000 in subsequent years is now included in Environment and Transport Portfolio's base revenue budget. The Council report noted that the yield from CIL is uncertain and will depend on market recovery. The income will therefore need to be closely monitored following implementation of the process.

Property/Other

16. There are no implications that arise for the Corporate Property Strategy.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

16. The Community Infrastructure Levy Regulations 2010 (as amended) are applicable as detailed in the main body of the report.

Other Legal Implications:

17. In making the proposals set out in this report the Council MUST have regard to the provisions of the Equality Act 2010 (including carrying out integrated impact assessments as appropriate), the duty under s.17 of the Crime & Disorder Act 1998 to carry out its functions having regard to the need to reduce or eliminate crime & disorder and the provisions of the Human Rights Act 1998 , in particular Article 8 (right to respect for private & family life) and Article 1 of the First Protocol (the protection of property). Any interference with the rights protected under the Act must be necessary and proportionate in the interests of a democratic society. The Council is satisfied that the proposals in the report comply with the statutory requirements set out above.

POLICY FRAMEWORK IMPLICATIONS

18. The proposed recommendations support the policies of the Council's current Local Development Framework.

KEY DECISION? Yes

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| WARDS/COMMUNITIES AFFECTED: | ALL |
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SUPPORTING DOCUMENTATION

Appendices

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| 1. | Community Infrastructure Levy Charging |
| 2. | Examination Report |
| 3. | Developer Contributions Supplementary Planning Document |
| 4. | Instalments Policy |

Documents In Members' Rooms

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| 1. | None |
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Equality Impact Assessment

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| Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out. | No |
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

| Title of Background Paper(s) | Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable) |
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| 1. | Knight Frank Viability Assessment 2012 | |
| 2. | Southampton City Council Infrastructure Study and Delivery Plan 2011 | |
| 3. | Southampton Demographic Forecast 2011 | |
| 4. | Report on the Examination of the Draft Southampton Community Infrastructure Levy Charging Schedule March 2013 | |